(2) *The Tamil Nadu General Sales Tax (Fourth Amendment) Bill,* 1970 (*L. A. Bill No.* 22 *of* 1970)

THE HON. THIRU P. U. SHANMUGHAM : Mr. Deputy Chairman, Sir, I move— 4-50 p.m.

'That the Tamil Nadu General Sales Tax (Fourth Amendment) Bill*, 1970 (L.A. Bill No. 22 of 1970), as passed by the Assembly, be taken into consideration for making recommendations.'

According to sub-section (3) of section 3 of the Tamil Nadu General Sales Tax Act, 1959, tax at a concessional rate of 2% is charged on sales of goods mentioned in First Schedule to the Act which are used as component parts in manufacturing any other goods mentioned in that Schedule. In the *Explanation* to sub-section (3) of section 3 of the Act, it is provided that for availing the above concessional rate, the component part is an article which forms an identifiable constituent of the finished product. The intention of the Government is that the concession should apply only in respect of component parts which are visually identifiable and capable of being separated by any mechanical process but not by a chemical process. *In State of Madras* vs. *R. M. Krishnaswamy Naidu* (26 S.T.C. 42), the Supreme Court has held that if a component is capable of identification by a chemical or other test as a component of a finished product falling within the First Schedule to the Act, it would be an identifiable constituent within the meaning of the *Explanation* to sub-section (3) of section 3 of the Act, and that the sale of such component would qualify for the concessional rate of tax under sub-section (3) of the said section 3.

As a result of the above judgment, claims for refunds are likely to be made by dealers in cases where assessments have already been finalised and refunds will also have to be made by the Assessing Authorities or Appellate Authorities as the case may be in pending cases. In order to overcome this difficulty, the Government have decided to amend the *Explanation* to sub-section (3) of section 3 of the Act with retrospective effect, making it clear that the concessional rate is applicable only to components which are visually identifiable and capable of being separated by any mechanical process but not by a chemical process. The Government have also decided to validate the levy and collection of tax already made in the cases in which the concessional rate of tax is not intended to apply.

In order to give effect to the above decisions, the Tamil Nadu General Sales Tax (Fourth Amendment) Bill, 1970 has been introduced and the same is before the House for consideration.

Sir, I commend the motion for the acceptance of the House.

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*Printed as Appendix III.

DEPUTY CHAIRMAN : The question is—

"That the Tamil Nadu General Sales Tax (Fourth Amendment) Bill, 1970 (L.A. Bill No. 22 of 1970), as passed by the Assembly, be taken into consideration for making recommendations."

The motion was put and carried and the Bill was taken up for making recommendations.

DEPUTY CHAIRMAN : As there are no recommendations, the Bill will be returned to the Assembly without any recommendations.

(3) *The Tamil Nadu Agricultural Produce Market (Amendment and Validation of Cess) Bill, 1970 (L. A. Bill No. 29 of 1970)*

THE HON. THIRUMATHI SATHIAVANIMUTHU : Mr. Deputy Chairman, Sir, I move—

"That the Tamil Nadu Agricultural Produce Markets (Amendment and Validation of Cess) Bill,* 1970 (L.A. Bill No. 29 of 1970), as passed by the Assembly, be taken into consideration for making recommendations."

Under the Tamil Nadu Agricultural Produce Markets Act, 1959 (Tamil Nadu Act 23 of 1959), Market Committees had been constituted in the districts for the better regulation of buying and selling of agricultural produces and the establishment and proper administration of markets for agricultural produces in the State of Tamil Nadu. The main source of income of such Market Committees is cess which is levied by them upon the sale of purchase of notified agricultural produces in pursuance of the powers conferred under sub-section (1) of section 18 of the Tamil Nadu Agricultural Produce Markets Act, 1959 (Tamil Nadu Act 23 of 1959). Sub-section (3) of the said section provides that the cess so levied shall be subject to the provisions of Article 286 of the Constitution. According to clause (3) of Article 286 of the Constitution, any law of a State shall, in so far as it imposes, or authorises the imposition of, a tax on the sale or purchase of goods declared by Parliament by law to be of special importance in inter-State trade or commerce, be subject to such restrictions and conditions in regard to the system of levy, rates and other incidents of the tax as Parliament may by law specify. By virtue of this Article, the Parliament has enacted the Central Sales Tax Act, 1956 (Central Act 74 of 1956), which *inter alia* declares certain goods to be of special importance in inter-state trade or commerce and specifies the restrictions and conditions subject to which State laws can impose taxes on the sale or purchase of such declared goods, namely, the tax payable by any dealer inside the State shall not exceed two per cent (three per cent from 1st July, 1966) of the sale or purchase thereof and such tax shall not be levied at more than one stage in a State. The point of levy and the rate of cess which is levied by way

* Printed as Appendix IV.